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DEPARTMENT OF COMMERCE

International Trade Administration

A-570-981

Utility Scale Wind Towers from the People's Republic of China: Antidumping Duty Order

AGENCY: Import Administration, International Trade Administration, Department of Commerce

SUMMARY: Based on affirmative final determinations by the Department of Commerce (the "Department") and the International Trade Commission ("ITC"), the Department is issuing an antidumping duty order on utility scale wind towers ("wind towers") from the People's Republic of China ("PRC").

EFFECTIVE DATE: (Insert date of publication in the Federal Register.)

FOR FURTHER INFORMATION CONTACT: Lilit Astvatsatrian, Shawn Higgins, Thomas Martin, or Trisha Tran, AD/CVD Operations, Office 4, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482-6412, (202) 482-0679, (202) 482-3936, or (202) 482-4852, respectively.

SUPPLEMENTARY INFORMATION:

Background

In accordance with sections 735(d) and 777(i)(1) of the Tariff Act of 1930, as amended ("Act"), on December 26, 2012, the Department published the final determination of sales at less than fair value in the antidumping duty investigation of wind towers from the PRC.¹ On February 8, 2013, the ITC notified the Department of its affirmative determination that an

¹ See Utility Scale Wind Towers From the People's Republic of China: Final Determination of Sales at Less Than Fair Value, 77 FR 75992 (December 26, 2012).

industry in the United States is materially injured or threatened with material injury by reason of imports of wind towers from the PRC.²

Scope of the Order

The merchandise covered by this order are certain wind towers, whether or not tapered, and sections thereof. Certain wind towers are designed to support the nacelle and rotor blades in a wind turbine with a minimum rated electrical power generation capacity in excess of 100 kilowatts and with a minimum height of 50 meters measured from the base of the tower to the bottom of the nacelle (i.e., where the top of the tower and nacelle are joined) when fully assembled.

A wind tower section consists of, at a minimum, multiple steel plates rolled into cylindrical or conical shapes and welded together (or otherwise attached) to form a steel shell, regardless of coating, end-finish, painting, treatment, or method of manufacture, and with or without flanges, doors, or internal or external components (e.g., flooring/decking, ladders, lifts, electrical buss boxes, electrical cabling, conduit, cable harness for nacelle generator, interior lighting, tool and storage lockers) attached to the wind tower section. Several wind tower sections are normally required to form a completed wind tower.

Wind towers and sections thereof are included within the scope whether or not they are joined with nonsubject merchandise, such as nacelles or rotor blades, and whether or not they have internal or external components attached to the subject merchandise.

Specifically excluded from the scope are nacelles and rotor blades, regardless of whether they are attached to the wind tower. Also excluded are any internal or external components which are not attached to the wind towers or sections thereof.

² See Utility Scale Wind Towers from China and Vietnam, USITC Investigation Nos. 701-TA-486 and 731-TA-1195-1196 (Final), USITC Publication 4372 (February 2013) ("ITC Report").

Merchandise covered by the order is currently classified in the Harmonized Tariff System of the United States (“HTSUS”) under subheadings 7308.20.0020³ or 8502.31.0000.⁴ Prior to 2011, merchandise covered by the order was classified in the HTSUS under subheading 7308.20.0000 and may continue to be to some degree. While the HTSUS subheadings are provided for convenience and customs purposes, the written description of the scope of the order is dispositive.

Antidumping Duty Order

As noted above, on February 8, 2013, in accordance with section 735(d) of the Act, the ITC notified the Department of its determination that an industry in the United States is materially injured or threatened with material injury by reason of imports of wind towers from the PRC. Therefore, in accordance with section 736(a)(1) of the Act, the Department will direct U.S. Customs and Border Protection (“CBP”) to assess, upon further instruction by the Department, antidumping duties equal to the amount by which the normal value of the merchandise exceeds the export price (or constructed export price) of the merchandise, for all relevant entries of wind towers from the PRC.

Section 736(b)(1) of the Act establishes a “general rule” that, if the ITC, in its final determination, finds “material injury or threat of material injury which, but for the suspension of liquidation under section 733(d)(2) {of the Act} would have led to a finding of material injury,” then entries of the subject merchandise, the liquidation of which has been suspended pursuant to the Department’s preliminary determination under section 733(d)(2) of the Act, shall be subject to the imposition of antidumping duties. Section 736(b)(2) of the Act establishes a “special rule” that, if the ITC’s final injury determination is based on the threat of material injury (other than

³ Wind towers are classified under HTSUS 7308.20.0020 when imported as a tower or tower section(s) alone.

⁴ Wind towers may also be classified under HTSUS 8502.31.0000 when imported as part of a wind turbine (i.e., accompanying nacelles and/or rotor blades).

threat of material injury described in the “general rule”) antidumping duties shall be assessed on subject merchandise entered, or withdrawn from warehouse, for consumption on or after the date of publication of the ITC’s notice of final determination. Under this “special rule,” the Department orders CBP to terminate suspension and refund any cash deposit of estimated antidumping duties for entries made since the Department’s preliminary antidumping duty determination⁵ and before publication of the ITC’s final injury determination.⁶

After reviewing the ITC’s final determination, the Department determines that the “special rule” pursuant to section 736(b)(2) of the Act is applicable to the imposition of antidumping duties under this order. Of the votes in the ITC’s final determination, two commissioners determined that an industry in the United States is materially injured by reason of imports of utility scale wind towers from the PRC and the Socialist Republic of Vietnam, one commissioner determined that an industry in the United States is threatened with material injury by reason of such imports and further determined that he would not have found material injury but for the suspension of liquidation, and three commissioners determined that an industry in the United States is not materially injured or threatened with material injury by reason of such imports.⁷ Because the ITC’s determination that an industry in the United States is materially injured or threatened with material injury is not accompanied by a finding that material injury would have resulted but for the suspension of liquidation of entries since the Preliminary Determination, the Department determines that the “general rule” of section 736(b)(1) of the Act

⁵ See Utility Scale Wind Towers From the People’s Republic of China: Preliminary Determination of Sales at Less Than Fair Value and Postponement of Final Determination, 77 FR 46034 (August 2, 2012) (“Preliminary Determination”).

⁶ Section 736(b)(2) of the Act (“the Department shall release any bonds or other security made, and refund any cash deposit made . . . with respect to entries of the merchandise entered, or withdrawn from warehouse, for consumption before {the date of the publication of the ITC’s affirmative final injury determination}”); see, e.g., Narrow Woven Ribbons With Woven Selvage From Taiwan and the People’s Republic of China: Antidumping Duty Orders, 75 FR 53632, 53633 (September 1, 2010) (where the Department ordered the termination of suspension and refund of duties for entries occurring prior to the publication of the ITC’s affirmative threat determination).

⁷ See ITC Report.

does not apply.⁸ Therefore, in accordance with the “special rule” of section 736(b)(2) of the Act, the Department will instruct CBP to terminate the suspension of liquidation for entries of wind towers from the PRC entered, or withdrawn from warehouse, for consumption prior to the publication of the ITC’s final determination and refund any cash deposit of estimated antidumping duties for these entries.

Suspension of Liquidation and Collection of Cash Deposit

In accordance with sections 735(c)(1)(B) and 736(b)(2) of the Act, the Department will instruct CBP to suspend liquidation on all entries of subject merchandise from the PRC made on or after the date of the publication of the ITC’s final affirmative injury determination. The Department will also instruct CBP to require cash deposits equal to the estimated amount by which the normal value exceeds the U.S. price as indicated in the chart below. These cash deposit rates will be adjusted, where appropriate, for export subsidies. These instructions suspending liquidation will remain in effect until further notice.

Accordingly, effective on the date of publication of the ITC’s final affirmative injury determination, CBP will require, at the same time as importers would normally deposit estimated duties on this subject merchandise, a cash deposit for estimated antidumping duties based on the weighted-average dumping margins, adjusted, where appropriate, for export subsidies.⁹ The rate for the PRC-wide entity applies to all combinations of producers and exporters of subject merchandise not specifically listed under the “Final Determination of Antidumping Investigation” section below.

⁸ See *MBL (USA) Corp. v. United States*, 16 C.I.T. 108, 111-114 (1992) (finding that the Act requires the Department, when confronted with the same ITC voting pattern as present here, to refund duties collected prior to the ITC’s publication of its final injury determination).

⁹ See section 736(a)(3) of the Act.

Final Determination of Antidumping Investigation

The weighted-average dumping margins are as follows:

Exporter	Producer	Weighted-Average Dumping Margin
Chengxi Shipyard Co., Ltd.	Chengxi Shipyard Co., Ltd.	47.59 %
Titan Wind Energy (Suzhou) Co., Ltd.	Titan (Lianyungang) Metal Product Co., Ltd.	44.99 %
Titan Wind Energy (Suzhou) Co., Ltd.	Titan Wind Energy (Suzhou) Co., Ltd.	44.99 %
CS Wind Corporation	CS Wind China Co., Ltd.	46.38 %
Guodian United Power Technology Baoding Co., Ltd.	Guodian United Power Technology Baoding Co., Ltd.	46.38 %
Sinovel Wind Group Co., Ltd.	Qiangsheng Wind Equipment Co., Ltd.	46.38 %
PRC-Wide Entity		70.63 %

* PRC-Wide Entity includes AVIC International Renewable Energy Co., Ltd.

This notice constitutes the antidumping duty order with respect to wind towers from the PRC pursuant to section 736(a) of the Act.

This order is published in accordance with section 736(a) of the Act and 19 CFR 351.211.

Paul Piquado
Assistant Secretary
for Import Administration

February 12, 2013

Date

